

**ALASKA STATE LEGISLATURE**  
**HOUSE SPECIAL COMMITTEE ON FISHERIES**  
April 6, 2021

**MEMBERS PRESENT**

Representative Geran Tarr, Chair  
Representative Louise Stutes, Vice Chair  
Representative Jonathan Kreiss-Tomkins  
Representative Andi Story  
Representative Dan Ortiz  
Representative Sarah Vance  
Representative Kevin McCabe

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 54

"An Act establishing the Alaska Invasive Species Council in the Department of Fish and Game; relating to management of invasive species; relating to invasive species management decals; and providing for an effective date."

- MOVED CSHB 54(FSH) OUT OF COMMITTEE

HOUSE BILL NO. 82

"An Act relating to surface use restrictions for oil and gas leases; relating to gas leases in Kachemak Bay; relating to the renewable energy grant fund; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 54

SHORT TITLE: INVASIVE SPECIES MANAGEMENT

SPONSOR(S): FISHERIES

02/18/21	(H)	PREFILE RELEASED 1/15/21
02/18/21	(H)	READ THE FIRST TIME - REFERRALS
02/18/21	(H)	RES, FSH
02/24/21	(H)	RES REFERRAL MOVED TO AFTER FSH
02/24/21	(H)	BILL REPRINTED

03/11/21	(H)	FSH AT 11:00 AM GRUENBERG 120
03/11/21	(H)	Heard & Held
03/11/21	(H)	MINUTE(FSH)
03/12/21	(H)	BILL REPRINTED
03/18/21	(H)	FSH AT 11:00 AM GRUENBERG 120
03/18/21	(H)	Heard & Held
03/18/21	(H)	MINUTE(FSH)
03/25/21	(H)	FSH AT 10:30 AM GRUENBERG 120
03/25/21	(H)	-- MEETING CANCELED --
03/30/21	(H)	FSH AT 10:00 AM GRUENBERG 120
03/30/21	(H)	<Bill Hearing Canceled>
04/01/21	(H)	FSH AT 10:00 AM GRUENBERG 120
04/01/21	(H)	<Bill Hearing Canceled>
04/06/21	(H)	FSH AT 10:00 AM GRUENBERG 120

BILL: HB 82

SHORT TITLE: GAS LEASES; RENEWABLE ENERGY GRANT FUND  
 SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/18/21	(H)	READ THE FIRST TIME - REFERRALS
02/18/21	(H)	RES, FSH
03/01/21	(H)	RES REFERRAL MOVED TO AFTER FSH
03/01/21	(H)	BILL REPRINTED
04/06/21	(H)	FSH AT 10:00 AM GRUENBERG 120

# **WITNESS REGISTER**

DOUG VINCENT-LANG, Commissioner

Alaska Department of Fish and Game (ADF&G)

Juneau, Alaska

**POSITION STATEMENT:** During the hearing of HB 54, answered questions.

HALEY PAINE, Deputy Director

Division of Oil and Gas (DOG)

Department of Natural Resources (DNR)

Anchorage, Alaska

**POSITION STATEMENT:** On behalf of the administration, introduced HB 82 via a PowerPoint presentation, entitled "HB82 GAS LEASES, RENEWABLE ENERGY GRANT FUND," dated 4/6/21.

SEAN CLIFTON, Program and Policy Specialist

Division of Oil and Gas (DOR)

Department of Natural Resources (DNR)

Anchorage Alaska

**POSITION STATEMENT:** On behalf of the administration, answered questions related to HB 82.

JOSH WISINEWSKI  
Seldovia, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 82.

PENELOPE HAAS  
Kachemak Bay Conservation Society (KBCS)  
Homer, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 82.

#### **ACTION NARRATIVE**

[10:15:46 AM](#)

**CHAIR GERAN TARR** called the House Special Committee on Fisheries meeting to order at 10:15 a.m. Representatives McCabe, Story, Kreiss-Tomkins, Ortiz, Vance, Stutes, and Tarr were present at the call to order.

#### **HB 54-INVASIVE SPECIES MANAGEMENT**

[10:17:01 AM](#)

CHAIR TARR announced that the first order of business would be HOUSE BILL NO. 54, "An Act establishing the Alaska Invasive Species Council in the Department of Fish and Game; relating to management of invasive species; relating to invasive species management decals; and providing for an effective date."

CHAIR TARR related that the proposed funding of the Alaska Invasive Species Council with \$60,000 from the unrestricted general fund (USG) came up as an issue. She said Amendment 1 is an idea that would address the issue.

[10:18:11 AM](#)

REPRESENTATIVE STUTES moved to adopt Amendment 1, labeled 32-LS0057\W.1, Bullard, 4/5/21, which read:

Page 1, following line 4:

Insert a new bill section to read:

"\* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section to read:

LEGISLATIVE INTENT. It is the intent of the legislature that the Department of Fish and Game support the activities of the Alaska Invasive Species Council, established by this Act, through

contributions, grants, and other forms of funding that do not involve the use of money from the state's general fund."

Page 1, line 5:

Delete "**Section 1**"

Insert "**Sec. 2**"

Renumber the following bill sections accordingly.

10:18:23 AM

CHAIR TARR objected for discussion purposes. She explained that Amendment 1 is legislative intent language. She recounted that adjusting the fiscal note was suggested, but the committee was advised that that was something for the House Finance Committee to potentially address. She further recounted that there was also a concern about the [Alaska Department of Fish and Game (ADF&G)] commissioner being prevented from moving forward with seeking grant funds. Therefore, she continued, Amendment 1 seems like a better option because, through discussion, the committee can establish its intent that [the council] not be funded through the UGF. She said the bill's next committee of referral is the House Resources Standing Committee.

10:19:48 AM

REPRESENTATIVE ORTIZ inquired about the reality of other funding truly happening should Amendment 1 pass.

CHAIR TARR replied that her sense from talking with the ADF&G commissioner is that he feels comfortable there would be grant opportunities. She said she is also aware of grant opportunities and that there may be federal funding as well. She further related that a provision in the "hatchery bill" [HB 80] would keep \$2.50 from the fee as a statutorily designated receipt for invasive species management. She cautioned, however, that [HB 80] is still moving through the legislative process, so the committee cannot get ahead of itself. She asked Commissioner Vincent-Lang to further address the question.

10:21:30 AM

DOUG VINCENT-LANG, Commissioner, Alaska Department of Fish and Game (ADF&G), responded he is convinced that there are pots of money available which could be tapped to support the proposed Alaska Invasive Species Council without using UGF the first two

or three years. He noted that HB 54 originally had regulatory authorities associated with it as well as the council and his thought was that a first positive step would be to form the council to evaluate some of the issues associated with invasive species and come together with some solid recommendations that could be moved forward. He said ADF&G is looking internally at other funding sources such as state wildlife action grants and the fish and game fund, given the importance that invasive species play in the state and the threats they pose to Alaska's existing fish and game resources.

[10:22:36 AM](#)

CHAIR TARR removed her objection to Amendment 1. There being no further objection, Amendment 1 was adopted.

[10:23:02 AM](#)

REPRESENTATIVE VANCE asked whether the [proposed] council would be looking at invasive birds and animals in addition to looking at invasive aquatic species.

CHAIR TARR referenced [page 2] of the bill detailing the tasks and membership in the council. She answered that the intention with designating the Department of Natural Resources (DNR) and ADF&G as participants in the council is [to address] aquatic, terrestrial, vegetative, and other living organisms. The point will be for the council to have that comprehensive overview and plan, she added.

[10:24:16 AM](#)

CHAIR TARR specified that as a committee bill, the committee will be working with the next committee of referral. She offered her appreciation to the members for working on the bill and said it will be beneficial for all of Alaska.

[10:24:46 AM](#)

REPRESENTATIVE STUTES moved to report HB 54, as amended, out of committee with individual recommendations and accompanying fiscal notes. There being no objection, CSHB 54(FSH) was reported out of the House Special Committee on Fisheries.

**HB 82-GAS LEASES; RENEWABLE ENERGY GRANT FUND**

[10:25:20 AM](#)

CHAIR TARR announced that the final order of business would be HOUSE BILL NO. 82, "An Act relating to surface use restrictions for oil and gas leases; relating to gas leases in Kachemak Bay; relating to the renewable energy grant fund; and providing for an effective date."

CHAIR TARR noted that HB 82 is by request of the governor. She invited Ms. Haley Paine from the Department of Natural Resources (DNR) to present the bill on behalf of the administration.

10:26:04 AM

HALEY PAINE, Deputy Director, Division of Oil and Gas (DOG), Department of Natural Resources (DNR), on behalf of the administration, introduced HB 82 via a PowerPoint presentation entitled, "HB82 GAS LEASES, RENEWABLE ENERGY GRANT FUND," dated 4/6/21. She displayed slide 2, "MAIN PURPOSE," and explained that the main purpose of HB 82 is to allow the Division of Oil and Gas to lease and capture revenue from state-owned resources that underly lands restricted to surface use. She stated that HB 82 would not open Kachemak Bay or any other closed area to surface development; the bill aims only to capture royalty revenue from geology drained through adjacent development on nearby unrestricted lands. She said modern drilling technologies enable oil and gas to be safely developed from adjacent lands with no impact to the surface of restricted areas including offshore, which means that the non-surface leasing would not threaten the fisheries of Kachemak Bay. The primary benefit of HB 82 would be increased revenue, Ms. Paine specified; lands with surface use restrictions would still provide revenue in the form of lease sale bids, annual rental payments, and royalties if made available for subsurface-only development. She said the state would be able to protect the lands using established regulatory methods while still maximizing the economic recovery of its resources.

10:28:29 AM

MS. PAINE moved to slide 3, "WHAT HAPPENS IF WE CAN'T LEASE," and stated that the main concern is the mechanism for collecting royalties. She explained that if the unleased land is drained from wells on adjacent leases, royalties may not be paid to the state or revenue could be diminished. For instance, she said, the wellhead may be located on private lands, and this may prevent the state from realizing the revenue unless remedy is sought through the Alaska Oil and Gas Conservation Commission

(AOGCC) and a correlative rights claim. She pointed out that leasing is the standard mechanism for establishing a contractual relationship between the state and the developer. Through the lease, she continued, the state exercises its authority to comply with mitigation measures and to require the sharing of drilling and reservoir data, data which is integral to the state for understanding the extent of its resources.

10:29:30 AM

MS. PAINE related that the maps on slide 4, "THE SUBJECT AREA," depict the subject area discussed in Section 2 of HB 82. She said the bill seeks to allow gas-only leasing of the subject area while maintaining the current surface use restrictions. She noted that the blue hatching specifically shows the township in question, Township 5 South, Range 15 West. She related that the subject area is adjacent to active development on the Kenai Peninsula, which includes the Seaview Unit approved by DOG in October 2020. She drew attention to the Cosmopolitan Unit, an offshore lease area currently under development from the Hansen Pad located onshore on private lands. This is an example of successful access of offshore resources without impacting the surface use of the waters, she continued. She pointed out that the hatched green line delineates the current Cook Inlet areawide sale boundary, and the solid red line delineates the Kachemak Bay oil and gas closure area.

10:31:15 AM

MS. PAINE reviewed the sectional analysis provided on slides 5-7. She displayed slide 5 and said Section 1 would add a new section, AS 38.05.176, to AS 38.05 specifying that a statute restricting the surface use of an oil and gas, or gas-only, lease area does not also restrict leasing and development of the subsurface of that area from unrestricted land. She said this is a general provision intended to broadly capture the purpose of this bill and address future surface use restrictions that may be imposed on the state's natural resources.

MS. PAINE moved to slide 6 and said Sections 2 and 3 would amend AS [38.05.184] to authorize DNR to offer gas-only leases specifically within [Township 5 South, Range 15 West], as depicted on the map on slide 4. She specified there would be no right to use the surface of the land, in keeping with the original intention of the Kachemak Bay oil and gas closure area to protect the region's fisheries. She said [AS 38.03184(b)]

would be amended to acknowledge the exemption that would be created with the new subsection (h).

MS. PAINE displayed slide 7 and said that in recognition of the unique nature of the area to be leased, Sections 4-6 would amend AS 42.45.045(b) to allow the legislature to appropriate revenue from these specific leases to the Renewable Energy Grant Fund. The governor, she related, recognized in this bill an opportunity to add funds to this account, and revenue would come from the state's rentals and royalties collected through these specific leases. Such appropriations would occur after the constitutionally required deposits to the Alaska permanent fund, she noted, and all appropriations would be at the discretion of the legislature. She explained that the final sections of HB 82 would move language about the Department of Revenue being manager of the fund and would provide for the bill to be effective immediately. She displayed slide 8 and concluded her presentation by inviting members to ask questions.

10:34:16 AM

REPRESENTATIVE STUTES asked whether she is correct in understanding that this development could conceivably take place without this [proposed] lease, it is just that the state would not receive any revenue for it.

MS. PAINE confirmed that Representative Stutes is correct. She explained that given the current and planned development from onshore, the reservoir could potentially be drained by the currently planned vertical wells due to the way the subsurface geology works. Even without attempting to go through to the subsurface of the lands underlying the water, she further explained, the pressures from the permitted development of unrestricted lands could allow the gas molecules to migrate over. But, she said, at that point in time it would not be considered from a state lands lease, so the state would lose that revenue or have that revenue diminished. While there could be a remedy through AOGCC, she continued, it would involve a lengthier discussion and some of the more immediate revenues from rentals and lease sale bids would not be realized.

10:36:02 AM

REPRESENTATIVE VANCE remarked that a change like this is going to get attention in her community. She asked whether there is an estimate for the revenue that could be had should HB 82 pass.



MS. PAINE responded that an exact figure is not had at this time because the unit and area around it is still being delineated. At this time, she added, there is only one well looking to come online as soon as a pipeline is built onshore to connect the existing onshore infrastructure.

REPRESENTATIVE VANCE surmised that the project believes it is going to be profitable. She said it would be helpful for her to know the figure as soon as DOG has an estimate. She related that from the perspective of her district it is a heavy lift for any changes because the proposed area is a critical habitat area. She requested DOG to speak to the history of oil and gas in Kachemak Bay and how subsurface drilling is so much safer than an oil rig.

10:38:03 AM

SEAN CLIFTON, Program and Policy Specialist, Division of Oil and Gas (DOR), Department of Natural Resources (DNR), recounted that the Kachemak Bay oil and gas closure area was conceived in the mid-1970s after the George Ferris rig became stuck in the mud, which Representative Vance's constituents no doubt have in their minds. He further recounted that lease buybacks were then approved by the legislature and afterward AS 38.05.184 was enacted to explicitly protect that habitat. He stated that nothing in HB 82 would change that. He further stated that the explicit desire to protect and preserve the habitat is honored by not allowing any surface impact – from the water surface to the seafloor there would be no drilling offshore, no pipelines, no platforms, no jack-up rigs. Mr. Clifton added that HB 82 would only open that offshore acreage so the state can lease it, which is the state's usual contractual relationship with developers, and the developers could then access from offshore, and the state could receive royalty revenue from that.

10:39:55 AM

REPRESENTATIVE VANCE confirmed that the George Ferris incident is very ripe in people's minds as they are very protective of their bay. She asked whether a spill or leak could happen and inquired what the response would be.

MS. PAINE answered that no well casings would be placed in this area. She said everything would only happen from the shore so there would be no pipelines and no infrastructure; there would be nothing that could leak and pollute the waters. Furthermore, she continued, there are extensive state and federal regulatory

prevention and protection laws, as well as extensive plans to ensure safety. These measures are well documented throughout Cook Inlet, she added, and Cook Inlet has been the home and successful avenue of oil and gas development since the early 1960s. She noted that there are several critical habitat and refuge areas within Cook Inlet, so the division is aware of the protections that need to take place to honor those areas and it is common throughout Cook Inlet development to prevent surface use in certain areas.

REPRESENTATIVE VANCE remarked that Ms. Paine answered the other question she was going to ask about whether there are other critical habitat areas in Cook Inlet.

[10:42:30 AM](#)

REPRESENTATIVE ORTIZ asked why this particular bill is being seen now. He further asked about the changes in technology that would now allow an onshore developer to gain access to the resources under the subsurface of Kachemak Bay.

MR. CLIFTON replied that part of what has changed is that the southern end of this sale area has recently seen a lot of new lease activity, almost exclusively from Hilcorp Energy Company which is acquiring leases from [the state] and local private resource owners. The Kenai Peninsula is unique in having a lot of homesteaded land that was patented before or at statehood to include the mineral estate, he noted, whereas the state retains the mineral estate on most of the land that was acquired afterward. Regarding newer technologies, he said there is the ability to drill deeper or longer lateral wells and hydraulic fracturing ("fracking") technologies have advanced. Fracking has been around for more than a century, he continued, but the newer fracking technology allows a single well to get access to more gas migrating to it than may have been possible in the 1970s, and this is a newer opportunity to get access to gas from onshore that may have been less likely a few years ago.

[10:45:31 AM](#)

REPRESENTATIVE ORTIZ recalled an earlier statement that if this development were to happen it would not include any pipeline or infrastructure. He asked how the natural gas elements would get transferred to the land without any pipeline or infrastructure.

MR. CLIFTON responded that while the rock is solid there is pore space where gas molecules can move through it, so gas will

migrate through the pore space to the well. Fracking, he explained, opens more of that pore space, and holds it open farther from where the well is drilled, so the gas can migrate quite a long way to that wellbore. The differential pressure also helps the gas move to the well and then up through the wellhead on the surface. He said this allows development from one to four miles offshore that doesn't involve drilling a well or establishing a pipeline offshore in the water.

[10:47:16 AM](#)

REPRESENTATIVE MCCABE requested a description of how directional drilling would work in this field, such as how far inshore the drill rig would be, where the mud storage would be, and at what depth the blocker would be set before it goes underneath the shoreline and into [the seafloor below] the water.

MR. CLIFTON answered that he doesn't know the specific depths of the pool that is proposed for development in the Seaview Unit. He said he could refer to the division's published decision establishing the participating area and get those details to the representative's office later today. Wells can be miles deep and miles long, he explained; for example, the wells in the Cosmopolitan Unit are being developed from an onshore pad and reach out as far as four miles offshore. He said [today's] drilling technology allows for steering the well with quite a degree of control and accuracy through the strata to reach very specific targets.

[10:49:14 AM](#)

REPRESENTATIVE MCCABE stated that the committee's concern is the fisheries, so it is important to know how deep it will be under the shoreline, to know about the drilling mud, and those things that could affect the fishery. He pointed out that in most drill operations the drilling mud is a problem with disposal, cleanup, and leakage. He said it would be helpful to show the mechanics of it when explaining this to concerned citizens.

MR. CLIFTON replied that the AOGCC does extensive review of the engineering plans for each well that it permits. He said a main job of the AOGCC is to protect the environment, especially drinking water aquifers and waters relied upon for fisheries. The AOGCC, he continued, would never permit a well to be drilled if there appeared to be any threat to a drinking water aquifer onshore or fishery waters offshore.

MS. PAINE added that while the area in question is a specific township, the division does not have before it a specific project that describes how this would be developed. The division, she offered, can provide information to the committee about the currently approved participating area onshore at the Seaview Unit, which would have information like the depth of the reservoir being targeted. She said DOG could also share information from the Cosmopolitan Unit, though that information would be different because that unit is accessing oil and the bill's proposal is gas only. She pointed out that the original legislated closure was specific to oil, which is another reason DOG is going for gas only and non-surface access for this leasing area.

[10:52:32 AM](#)

REPRESENTATIVE STUTES stated she was alarmed to hear the term fracking because she knows it is a very controversial process. She surmised that [the proposal] is a fracking process and asked whether much fracking is currently happening in Alaska.

MR. CLIFTON responded that fracking is very common and safe, and almost all oil and gas wells are fracked because it improves a well's performance. He reiterated that fracking has been used for more than a century and said the only reason it has become a new hot button topic is because the technology around fracking has improved and allowed the development of shale oil. He stated that the engineers at AOGCC look in detail at fracking and everything else from the well's engineering design to disposal of the fluids once the job is finished. He said there is no reason to see fracking as unsafe or as any kind of a special threat to the fishery.

[10:54:52 AM](#)

REPRESENTATIVE STUTES remarked that fracking cannot be all that safe because she understands that at least one state has outlawed it.

MR. CLIFTON answered he has heard that one or more state legislatures have proposed to ban fracking in their states but said that does not mean from a scientific or engineering perspective there was any good reason for them to ban it. He maintained that most of the activist information about fracking is misinformation and not based on science. He stated that if it were a genuine threat "the very smart folks over at AOGCC

would not be allowing it to go on," and the information is available to the public every time AOGCC permits fracking.

MS. PAINE added that the information DOG will be providing on the nearby developments will show that hydraulic fracturing is already occurring very close by and is permitted in the Cook Inlet sale area. She said the track record can be seen based on the years of operation of nearby fields and should provide assurance that this is a very regulated and researched avenue. She specified that DOG would not be proposing anything here that is not already widely used throughout the state; experimental technology or methodology is not trying to be used in this area. She said everything would be happening at subsurface depths of at least 6,000 feet below the waterline underneath the surface.

10:57:10 AM

REPRESENTATIVE STORY recalled the statement that the benefits of this proposal include revenue and access to more gas. She surmised the division had done an assessment and that it would be helpful to receive the information from the division's assessment of the pros and cons of this project.

MS. PAINE replied that the cons for not moving forward with the bill would be the lost revenue to the state and the possibility of inefficient development of these hydrocarbon resources. She said there could be unwitting development from the differentials in pressures in the geology and the state would thereby lose its potential revenue. She stated that the division does not see any environmental or other concerns when weighing the benefits and risks of this proposal. She related that when she emails the information to committee members, she will reference some documents in DOG's Cook Inlet Best Interest Finding. In the finding for the entire sale area, she said, DOG took a hard look at the fish, wildlife, habitat, and communities and evaluated everything as a holistic picture for oil and gas development and the benefits to the state. For this discrete township the greatest con seen by DOG is the lost potential revenue that can occur, she reiterated. The approved development area for the Seaview Unit is currently at a 60/40 split, she specified, meaning 60 percent is held by private mineral owners and 40 percent by the state. At this point in time, she explained, if those offshore areas proposed in HB 82 are drained in some way the state would not have its proper revenue share because it would be splitting it amongst these other parties. Reservoir data is something that only becomes available to the state through the formal lease contract, she noted, so if the state

can formally lease, capture, and quantify what the reservoir target is then the state can justify and reallocate those tract factor percentages to further allow for the state to realize its true potential. She advised that while she does not have any specific numbers, it could sway it from 60/40 to perhaps 75/25, just as a number to throw out in favor of the state.

REPRESENTATIVE STORY stated that DOG's assessments on the fish wildlife, and community for this project would be helpful.

11:01:23 AM

REPRESENTATIVE MCCABE offered his understanding that Ms. Paine said there is private land where the subsurface rights are owned because it was pre-statehood and that people are already considering or already drilling there, and they can possibly suck the gas out of this field and leave the state with nothing. He inquired whether he is correct in understanding that fracking is hydraulic and done with millions of gallons of water, which is why one or more states have prohibited it. Those millions of gallons of water are pulled out of the local aquafer, he said, and injected into the hole where the hydraulic pressure expands the rock and creates fissures that the gas can come through. It isn't that the fracking causes the aquafer to go away, he continued, it is that the fracking process takes water out of the aquafer, which affects the local wells.

MR. CLIFTON responded that he doesn't think there is anywhere in the U.S., and certainly not in Alaska, that any drilling company is allowed to inject waste fluids into an aquifer. He said the development wells and the waste disposal wells are thousands of feet deep, often miles deep, whereas drinking water aquifers are usually 100-400 feet deep. He further stated that when permitting a waste disposal well the AOGCC looks at where the waste fluids would be injected and the possibility of their migrating into a place where they could contaminate aquifers or surface waters and the AOGCC would never permit a waste disposal well that had any such risk. That there might be some risk to drinking water aquifers is a concern he has heard before in the fracking debate, he continued, but the waste disposal wells are much deeper than are the aquifers and waste is never injected into an aquifer that people drink from or that is used to irrigate crops.

MR. CLIFTON continued his response. He said private landowners themselves are not developing any of this because they typically cannot afford the millions of dollars required to permit and

drill a well and establish the infrastructure required to produce gas, let alone build a pipeline extension to bring it to market. Rather, he stated, many of the private mineral owners in this area have signed a lease agreement with Hilcorp and for those leases within the Seaview Unit they are working interest owners just like the state is within that unit, and they share in the value of production for their royalties.

[11:06:07 AM](#)

REPRESENTATIVE MCCABE asked whether it is correct that in this case the private landowner would be getting the royalties, not the state. He further asked whether it is correct that if landowners with subsurface mineral rights lease their land to Hilcorp, then Hilcorp would not have to pay the state anything, Hilcorp would just pay the private owner.

MR. CLIFTON answered that in the lease agreement [the state] has a royalty rate, which in most cases in the Cook Inlet is 12.5 percent, and it is allocated by parcel or by lease. He said there is also some engineering involved to figure out what percentage of each parcel is contributing gas to the producing well. The calculation of the percentage that is contributing and the royalty rate, he continued, determines how much of the value of that produced gas goes to each mineral owner. He added that he would provide the committee with the schedule by which that has already been figured out for the Clark Participating Area in the Seaview Unit.

REPRESENTATIVE MCCABE asked whether it is correct that the 12.5 percent does not go to the state, it goes to the private landowner if that private landowner has the subsurface rights.

MR. CLIFTON replied, "Yes that is correct, ... the State of Alaska does not receive any revenue from private mineral interest lands."

[11:08:20 AM](#)

CHAIR TARR recalled that the type of drilling would be from vertical wells. She read from Section 1, page 1, lines 8-10, which state, "lease or gas only lease in specified acreage does not also restrict subsurface use for oil and gas resource development that can be accomplished by drilling from acreage that does not have surface use restrictions." She asked whether this language would enable directional drilling of any kind.



MS. PAINE confirmed that the general nature of this provision would permit any sort of well, vertical or horizontal, to access the subsurface of a restricted land from an unrestricted land. She stated it is correct that in the township being discussed here it is thought through vertical, but a lateral well is also possible. She said there are lateral wells in the Cosmopolitan Unit that are accessing the subsurface.

11:10:03 AM

CHAIR TARR remarked that that is possibly where there could be more concern about the overall environmental impact, including for fisheries. She said she looks to how the local community is responding to a proposal, but the committee packet does not provide any information as to whether the division has held public meetings or whether local government has taken positions. When it is the first of something, she stressed, a concern is whether it sets a precedent for future proposals.

MS. PAINE responded that at this time there have been no public meetings to discuss the bill with the local communities. She explained that the public is addressed through the broader Cook Inlet sale area as a part of the best interest finding process. Any time the division goes to dispose of the several million acres in the Cook Inlet, she further explained, it engages with members of all communities, nongovernmental organizations, and local government organizations through public notice and a public comment period; so, the sale area itself of the greater Cook Inlet has had a very robust public comment period. But, she continued, for HB 82 the division has not yet worked directly with those same public folks. If this bill were to be passed, the division would need to expand the Cook Inlet sale boundary to include this area. To do that, she stated, DOG would have to call for new information and supplemental information from the public before it could change the sale area boundary. There would be a public notice process and the opportunity to comment, the division would then review those comments and provide responses, and then decide whether expanding the sale area is in the best interest of the state. She specified that HB 82 lays the legislative possibility for it but there would still be a separate public process as a part of the sale area best interest finding that would incorporate and alert the public and allow them of their ability to participate.

11:13:04 AM



REPRESENTATIVE VANCE stated that her job is to look after the best interests of her people while [Ms. Paine's] job is to look after the best interests of the state. She recalled it being mentioned that there are private landowners benefitting from the royalties, not the state, at this time. She inquired about the ratio of private to public land within the proposed area.

MS. PAINE answered that that will be part of the supplemental information which will be provided to the committee for the Seaview Unit decision as well as the Clark Participating Area. It will include the names of the individual parcels and royalty percentages, she said, and will be provided in a detailed map format after today's discussion.

11:14:13 AM

REPRESENTATIVE VANCE commented that it feels like she is being asked to choose between providing a source of revenue for the people of her district who homesteaded and helped build the community versus providing a source of revenue for the state. She said being asked to expand further south in the Kachemak Bay area and potentially transferring revenue from the people to the state gives her great heartburn. She advised that she will be asking more questions about the proposal so the committee can make a more informed decision.

MS. PAINE responded by posing a scenario in which the resources [within the proposal] are drained and the money is going to the private landowners instead of the state. In that case, she explained, the state would petition the AOGCC for correlative rights and go through the process to demonstrate that the state's subsurface area is being drained. Instead of going directly to landowners, the money would maybe sit in a pot at AOGCC until litigation resolved who ultimately has those resources. But, she continued, [the state] would also be out the revenue that would be realized from the rentals as well as from the bonus bids from leasing the tracts. So, while [the state] could hope to remedy some of the royalties after a correlative rights process, other revenues would be left on the table and lost to the state.

11:17:00 AM

REPRESENTATIVE MCCABE stated it would be helpful to know how many people in this area would be affected, how many leases are had by Hilcorp on lands where the subsurface rights belong to a private citizen, how many parcels there are, and whether pads

have been completed and drilling underway. He asked what the difference is between vertical drilling and horizontal drilling.

MR. CLIFTON replied that all wells start vertically and have a series of progressively narrower and narrower casings designed to keep the well stable. Once at the target depth, he said, they break out and steer towards the target or steer around obstacles to be avoided such as other wells or an aquafer.

[11:19:06 AM](#)

CHAIR TARR stated that HB 82 would be held over. She observed that there is no Department of Revenue fiscal note and requested that one be prepared given there are questions about revenue. She confirmed that receiving the Cook Inlet Best Interest Finding would be helpful, as well as the number of private owner leases requested by Representative McCabe. She also requested an estimated timeline on the AOGCC process that was described and examples of where the state has used that process.

MS. PAINE agreed that the division would follow up with all the requested items. She stated that the Seaview Unit decision and the Clark Participating Area will also answer the correlative rights question and Representative McCabe's questions about the depth of the potential reservoirs and the pad that has already been built and improved in the area.

[11:21:21 AM](#)

CHAIR TARR opened public testimony on HB 82.

[11:21:40 AM](#)

JOSH WISINEWSKI, stated he is a Kachemak Bay commercial fisherman who setnets, fishes for halibut out of his skiff, and participates in the state and federal subsistence fisheries in the bay. He testified that he adamantly opposes HB 82 or any form of surface or subsurface oil and gas development in Kachemak Bay. He said the bill is completely inconsistent and oppositional with the purpose and spirit of designating Kachemak Bay as a critical habitat area to protect the ecological integrity that supports the area's commercial fisheries.

MR. WISINEWSKI referenced the [4/1/21] gas spill from a Hilcorp underwater pipeline located 80 feet underground near Platform A in [Cook Inlet], essential habitat to beluga whales and salmon stocks. He said any type of spill or discharge event [in

Kachemak Bay] would immediately disrupt the region's fishing and tourist economy that is worth \$1 billion annually, as well as cause irreparable harm to the ecology of Kachemak Bay. He concluded by stating that oil and gas development in Kachemak Bay is not worth the risk and not compatible with the fisheries.

[11:24:27 AM](#)

REPRESENTATIVE MCCABE inquired about the kind of boat used for fishing by Mr. Wisinewski

MR. WISINEWSKI replied he has a 22-foot skiff he built himself for setnetting and a slightly larger skiff for halibut. He added that he does all his fishing in Kachemak Bay.

[11:25:03 AM](#)

PENELOPE HAAS, Kachemak Bay Conservation Society (KBCS), testified in opposition to HB 82. She said the Kachemak Bay area is very rich and the bill proposes a fundamental change to the way that a critical habitat area and fisheries protections are considered. She maintained that lateral drilling and fracking underground into areas closed to oil and gas would change the balance between oil and gas and fisheries protection in Kachemak Bay as well as across the state. She related that KBCS disagrees with DNR's statement that this poses no risk to fisheries, and said it poses a substantial risk to fisheries in Kachemak Bay and in the rest of the state. She stated she would provide the committee with a list of evidence on the impacts of horizontal drilling and fracking to underground aquifers, drinking water, and waters that fish use and need. She urged the committee to ask DNR about the broad implications of HB 82 and how it relates to Kachemak Bay and relates to the rest of Alaska and said KBCS opposes this precedent setting change.

[11:27:28 AM](#)

CHAIR TARR closed public testimony on HB 82.

CHAIR TARR announced that HB 82 was held over.

[11:29:22 AM](#)

**ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 11:29 a.m.